

**SENSITIVE**

FEDERAL ELECTION  
COMMISSION

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BEFORE THE FEDERAL ELECTION COMMISSION PH 3:00

In the Matter of )

MUR 6762 )

Pridemore for Congress )

and Tricia Pridemore as treasurer )

**CELA**  
DISMISSAL AND  
CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY  
SYSTEM

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law.<sup>1</sup> It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances.

The Office of General Counsel has scored MUR 6762 as a low-rated matter and has determined that it should not be referred to the Alternative Dispute Resolution Office.<sup>2</sup> For the reasons set forth below, the Office of General Counsel recommends that the

<sup>1</sup> On September 1, 2014, the Act was transferred from Title 2 to new Title 52 of the United States Code.

<sup>2</sup> The EPS rating information is as follows:  
Response Filed: January 22, 2014.

Complaint Filed: November 20, 2013.

1 Commission dismiss the allegations that Pridemore for Congress<sup>3</sup> and Tricia Pridemore<sup>4</sup> in  
2 her official capacity as treasurer (collectively the "Committee" or "Respondents") violated  
3 52 U.S.C. § 30111(a)(4) (formerly 2 U.S.C. § 438(a)(4)) and 11 C.F.R. § 104.15.

4 This matter was generated by a complaint, *see* 52 U.S.C. § 30109(a)(1) (formerly  
5 2 U.S.C. § 437g(a)(1)), alleging that Respondents violated the Act and Commission  
6 regulations by using contributor information obtained from the Commission's disclosure  
7 reports to solicit contributions, in violation of 52 U.S.C. § 30111(a)(4) (formerly 2 U.S.C.  
8 § 438(a)(4)) and 11 C.F.R. § 104.15. Compl. at 1-2. The contributor information in  
9 question was disclosed in reports filed by Barr Congress, Inc. ("Barr Congress"), principal  
10 campaign committee for Bob Barr, one of Pridemore's opponents. Specifically, Barr  
11 Congress claims that it included fictitious names to detect the impermissible use of  
12 individual contributor information by outside organizations in its 2013 July Quarterly  
13 Disclosure Report, Schedule A (FEC Form 3), Itemized Receipts, filed with the  
14 Commission on July 15, 2013. Compl., Attach. A. Included among the fictitious names  
15 was who purportedly resided in  
16 and worked as Compl. at 1. Barr Congress alleges that the  
17 Committee sent this fictitious donor a campaign advertisement and an invitation to a  
18 fundraising event supporting Pridemore's campaign. *Id.* The mailing, postmarked  
19 November 2, 2013, also included a fundraising solicitation card and a return envelope from

<sup>3</sup> Pridemore for Congress is the principal campaign committee for Tricia Pridemore, 2014 candidate for Georgia's 11<sup>th</sup> Congressional District.

<sup>4</sup> On January 29, 2015, the Committee revised its Statement of Organization to name Tricia Pridemore as treasurer. During the time of the relevant activity, Caleb Crosby was the Committee's treasurer.

1 Respondents. Compl., Attach. C. Complainant alleges that the identity and address of  
2 was only disclosed to the public in Barr Congress' FEC disclosure reports. Compl.  
3 at 2.<sup>5</sup>

4 Respondents argue that is not a fictitious donor, but rather is an active  
5 contributor and Pridemore supporter who became acquainted with the Committee in June  
6 of 2013. Resp. at 1-2. Respondents state that made two contributions to the  
7 Committee on September 5, 2013, and December 10, 2013.<sup>6</sup> *Id.* In its disclosure reports,  
8 the Committee reported address in and reported his occupation  
9 2013 October Quarterly and Year-end Reports, Schedule A (FEC Form 3)

10 Itemized Receipts. In addition, the Committee states that and his wife hosted a  
11 December 15, 2013, birthday party and fundraising event for the candidate. Resp. at 2.  
12 Respondents claim that the data used to generate the solicitation mailing list would have  
13 included name and the address based on his interactions with,  
14 and initial contributions made to, the Committee. *Id.*

15 The Committee, in its response, does not explain why the solicitation in question  
16 was sent to at the fictitious address listed in the Barr Congress  
17 disclosure reports, rather than to the address that it listed in its own  
18 disclosure reports for previous donations from The response includes the sworn  
19 Affidavit of Sean Donnelly, the President and CEO of Five Points Consulting, who served

<sup>5</sup> On July 22, 2014, by a letter to the Commission, the Complainant in this matter requested that the complaint be withdrawn because Barr Congress "does not believe that the interests of justice are furthered by pursuit of this matter." Letter from Stefan Passantino to Frankie Hampton, FEC (July 22, 2014).

<sup>6</sup> The complaint claims that made the second contribution on December 10, 2013. However, the Committee's disclosure reports indicate that the contribution was made on December 13, 2013.

as a consultant to the Committee. *See* Resp. Attach. A. Donnelly claims that an unidentified subcontractor was responsible for the preparation and mailing of the solicitation materials that are at issue in this matter. *Id.* at 1. He says that the mailing list used by the subcontractor was derived from multiple lists collected from the Committee and other sources, and that those lists were provided to a FedEx office to prepare the final mailing list used to send the solicitation materials at issue. *Id.* According to Donnelly, FedEx combined the lists, removed duplicate entries among the lists, and if there were entries with conflicting information, reconciled those conflicts to produce a final mailing list. *Id.* Donnelly also stated that the subcontractor does not believe that FedEx identified conflicting entries to him or indicated how each conflict was resolved. *Id.* Donnelly attests that neither the subcontractor nor the Committee retained a final copy of the mailing list and, therefore, he is unable to determine whether or how the fictitious address was included in the solicitation mailing. *Id.*

Donnelly further states that once FedEx finalized the mailing list, printed the labels, and stuffed the envelopes, the materials were sent to approximately 1,000 people on or around November 2, 2013. *Id.* The total cost to prepare and send the entire mailing was \$984.15. *Id.* The Committee requests that because of the *de minimis* nature of the alleged violation that the Commission dismiss this matter. *Id.* at 6.

Political committees are required to file reports with the Commission identifying the names and mailing addresses of contributors who make contributions exceeding \$200 during the election cycle. 52 U.S.C. § 30104(b)(3)(A) (formerly 2 U.S.C. § 434(b)(3)(A)); 11 C.F.R. § 104.8(a). The Act provides that the Commission shall make reports and

1 statements filed with it available to the public for inspection and copying within 48 hours  
2 after receipt. 52 U.S.C. § 30111(a)(4) (formerly 2 U.S.C. § 438(a)(4)). Any information  
3 copied from such reports or statements, however, “may not be sold or used by any person  
4 for the purpose of soliciting contributions or for commercial purposes,” other than using  
5 the name and address of a political committee to solicit contributions from that political  
6 committee. *Id.*; see also 11 C.F.R. § 104.15(a). “Soliciting contributions” includes  
7 soliciting any type of contribution or donation, such as political or charitable contributions.  
8 11 C.F.R. § 104.15(b).

9 Respondents do not admit that they used contributor information derived from FEC  
10 reports. Even so, the Committee and its consultant claim that they cannot trace the origin  
11 of the address used for the solicitation. Instead, the  
12 Committee claims that it intended to send the solicitation to a different individual with the  
13 same name who was active in the campaign. However, the materials and solicitation in  
14 question were sent to an address that was “salted” in Barr Congress’ disclosure reports and  
15 the Committee cannot explain how that address became a part of the mailing list for the  
16 mailing in question.

17 The facts presented in this case do not conclusively indicate whether the  
18 Committee violated 52 U.S.C. § 30111(a)(4) (formerly 2 U.S.C. § 438(a)(4)) and 11  
19 C.F.R. § 104.15 by using contributor information obtained from FEC disclosure reports  
20 filed by Barr Congress for the purpose of soliciting contributions. However, given the  
21 limited scope of the alleged violation, as well as the low amount in violation, we do not

1 believe that it would be an efficient use of Commission resources to further pursue this  
2 matter.

3 Accordingly, the Office of General Counsel recommends that the Commission  
4 exercise its prosecutorial discretion and dismiss the allegations that Respondents violated  
5 52 U.S.C. § 30111(a)(4) (formerly 2 U.S.C. § 438(a)(4)) and 11 C.F.R. § 104.15, pursuant  
6 to *Heckler v. Chaney*, 470 U.S. 821 (1985). In addition, the Office of General Counsel  
7 recommends that the Commission approve the attached Factual and Legal Analysis and the  
8 appropriate letters and close the file.

9 **RECOMMENDATIONS**


- 10  
11 1. Dismiss the allegation that Pridemore for Congress and Tricia Pridemore in her  
12 official capacity as treasurer violated 52 U.S.C. § 30111(a)(4) (formerly 2 U.S.C.  
13 § 438(a)(4)) and 11 C.F.R. § 104.15;  
14  
15 2. Approve the attached Factual and Legal Analysis and the appropriate letters; and  
16  
17 3. Close the file.  
18


19 General Counsel


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25 Date  
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4/3/15

BY:

  
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